IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
CIVIL APPLICATION NO.6020 OF 2005
IN
FIRST APPEAL ST.NO.28378 OF 2005

Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

CORAM: A.S.OKA, J.
DATED: JULY 19, 2006.

P.C.:

1. Heard Shri Nighot appearing for the Applicant and the learned A.G.P. for the Respondent No.1. The Applicant is the acquiring body. The Applicant has challenged the impugned Judgment and Award passed under section 18 of the Land Acquisition Act, 1894. The normal rule is that the Applicant will have to deposit the entire amount due and payable under the impugned Award as a condition for grant of stay. This is not a case where the acquiring body was not heard by the Reference Court.

2. Shri Nighot for the Applicant submits that the compensation awarded is exorbitant and there is no legal base for awarding the compensation. He, therefore, submits that the stay may be granted subject to deposit of a nominal amount.

3. Apart from the fact that the impugned Award is in the nature of money decree, it must be noted that the interest at the rate of 15% p.a. has been granted by the Reference Court as required by section 28 of the Land Acquisition Act, 1894. If there is stay granted without deposit of entire decretal amount, in the event of the dismissal of the Appeal, the Applicant which is a public body will have to pay interest at the rate of 15% p.a.

. At present, First Appeals under the Land Acquisition Act from the year 1991 are still pending for final hearing. Therefore, there is no possibility of this Appeal being heard in the near future. Therefore, it is in the interest of the public exchequer that the entire amount due and payable is deposited by the Applicant. After deposit, liability to pay interest @ 15% will not exist. The question of permitting withdrawal of the said amount by the original claimants can be considered on merits.

4. Hence, I pass the following order:

i) There will be interim relief in terms of prayer clause (a) subject to condition of the Applicant depositing the entire amount due and payable under the impugned Award with the Reference Court within a period of 12 weeks from today.

ii) The Applicant will give notice of the deposit of the amount to the original claimants.

iii)If the amount is not deposited within stipulated period, interim relief granted will stand vacated.

iv) If the amount is deposited by the Applicant, the Reference Court will invest the said amount in fixed deposit with any nationalised bank, initially for a period of one year. If this Court does not permit the original claimants to withdraw the amount, the Reference Court will renew the fixed deposit till the final disposal of the Appeal.

v) Civil Application is disposed of in above terms with liberty the original claimants to apply for withdrawal of the amount. It is made clear that the Applicant will be free to contest the

Application on all available grounds.

Judge.